

**VERMONT AGENCY OF AGRICULTURE, FOOD AND MARKETS (AAFM)
VERMONT PESTICIDE ADVISORY COUNCIL (VPAC)
JANUARY 21, 2016 MEETING MINUES**

MEMBERS IN ATTENDANCE

Bosworth, Sid
Gary, Lené
Giguere, Cary
Hazelrigg, Ann
Levey, Rick
Palmer, Eric
Shively, Andy

MEMBERS ABSENT

Darrow, Casey
Halman, Josh
Hoffman-Contois, Razelle

GUESTS

Linda Boccuzzo
Michael Bald
Shaina Kasper
John Snell
Ben Delorme

Meeting Called to Order

1:21 pm EST

Meeting Adjourned

3:45 pm EST

Announcements

- Cary Giguere noted that he had been asked to lead the meeting in the Chair's absence.
- Cary pointed out that a data error presented by a member of the public at the 11/15 meeting has been noted in the minutes. A revised draft will be send to the Council for review.
- Cary provided an update on how the SharePoint site is to be used.
- Sid Bosworth noted that he suggested at an earlier meeting in the day, that any pollinator protection plan created for the State should be reviewed by the Council.

Public Comment

For this meeting, no formal comment period was employed. Instead, the public was encouraged to participate throughout the discussion.

Business

Vegetation Control within Railroad Rights-of-Way

The Council continued their discussion of vegetation control efforts within railroad Rights-of-Way (ROW) in Vermont, in particular, along the portion of the Washington County line (part of the Vermont Rail System) that runs through a heavily populated area in downtown Montpelier.

Cary reminded the Council that at the last meeting, it was agreed that it would be appropriate to further investigate and determine if it is possible to develop a separate general definition for "areas with high potential for public exposure". Discussion resumed regarding how such areas across the State could and should be defined and identified. Cary shared a draft outline of components that may be appropriate for consideration. He provided a brief history on the nature and extent of soil sterilant use in the maintenance of railroad ROWs and how this practice has evolved in recent years. Rick Levey noted that his research did not identify many examples of sensitive areas defined in terms of human populations. He raised the idea of conducting a risk analysis for potential public exposure to glyphosate due to use in railroad ROW vegetation control. Ann Hazelrigg inquired as to whether there was a precedent anywhere for creating such a definition. Cary said he didn't believe so, noting that he had looked for examples, including cities that have subways, which increase the likelihood of human exposure to herbicides used for rail maintenance. John Snell, a resident of Montpelier and also a member of the Montpelier Pedestrian Committee, noted that information is collected regarding dates, times and the number of people who pass by a specific area. He suggested this information could be of use in this effort. Cary agreed and would like Mr. Snell to provide this information for inclusion in the outline. Ann suggested signage be used along the bike paths. Ann asked if there is any evidence of public exposure. She noted studies that have looked at pesticide residue on golf shoes as a way of estimating exposure.

Concerns regarding the efficacy of treating areas of track in need of structural repair were discussed. Cary suggested that the condition of the rail bed be considered in tandem with vegetation management, including the potential use of alternate means of control. For example, it was noted sterilants would not be useful in areas where the ballast is in poor condition. However, if the ballast is in good condition or new, there could perhaps be justification to consider treatment every other year. Ben Delorme, speaking about the relationship between rail safety and ballast conditions, explained that if water can drain through the ballast, the ballast may not need to be replaced. He also pointed out that if water is standing in the ballast, the track is out of compliance.

Questions were raised as to how/why gardens and/or other encroachments into the ROW have been allowed to occur over the years. Andy Shively explained that while the State of Vermont owns the ROW, there is little policing or enforcement of these areas. Mr. Delorme noted that he had traveled through Vermont looking at the ROW and observed that no minimum distance has been respected. The standard was noted to be 33 feet from the ballast.

Specifics of treatment that occurred along the portion of the Washington County line where the railroad intersects Main and Granite Streets were discussed. Cary and Mr. Delorme clarified that in 2015, three to four rounds of mechanical cutting were conducted with weed whackers and brush hogs. It is anticipated that this work could begin earlier during the 2016 treatment season. When asked for his opinion regarding

the efficacy of the 2015 treatment, Mr. Delorme reminded the Council that while the “vegetation was knocked down, it must be remembered that rotting ties/ballast remain an issue, as is grease between where the rails and wheels meet.” Rick displayed the 2015 Washington County RR permit on the video monitor for reference purposes. The Council reviewed section 9A that requires herbicide application to be made prior to 7 am or after 6 pm. Rick suggested that residents of Montpelier may want to vote on what time of day they believe would pose the least risk to their community and select the signage that will be employed.

The pros and cons of alternative products, including aminopyralid and Matron, were discussed. Cary said that the last time he checked, Waipuna, the company that made an alternative weed control product from ingredients similar to non-dairy creamers, was no longer in business. The weed burner effort previously developed under the Alternatives Workgroup was discussed. A description of why this was not a viable option was provided. Mike Bald offered that in his opinion, rhizomatous plants such as Japanese Knotweed and Goutweed, are the most challenging types for the rail line to deal with. A discussion of such plants ensued.

Lené Gary suggested that public outreach is an area needing attention. Development of informational materials about the history of treatment strategies in Montpelier, and possibly a “Ballast 101” sheet, was discussed. Lené stressed that such information would provide stakeholders with background on this complex topic and provide for more productive exchanges. Ann suggested information packets include cost estimates for various non-chemical means of control, such as the installation of rubber mats or the paving of ballast. It was also suggested that the pros and cons associated with each treatment option be included. At Cary’s request, Andy Shively agreed to inquire as to whether construction changes could be considered by AOT in the future. Mr. Delorme reiterated that the land in question is private, not public, land, and that fact should be included in any informational materials developed. Andy agreed it would be helpful to include an explanation of who owns the ROW. Cary said he would like to see a provision for notification included in future permits for towns that fall out of the “sensitive area” designation.

Eric Palmer pointed out that provision of technical information often does not allay public concerns. Others agreed that pre-existing bias is a great challenge. Eric noted that other uses of pesticides within Vermont may present greater potential for public exposure than the highly controlled use under discussion and that it is important to provide a context for treatment within rail ROWs versus other applications/uses that may occur in a community. He reiterated his support for notification and expressed legitimate concern for the challenges this all poses for those who are chemically sensitive. He stressed that communication is the best option.

Lené asked Mr. Delorme about treatment in the Dorset Swamp area to better understand how the railroad mitigates risk from vegetation overgrowth in environmentally sensitive areas. Mr. Delorme suggested that if such an area was also highly populated, i.e., an area with high potential for public exposure, mechanical means would be used to control vegetation. Lené expressed concern that it has not yet been established that the railroad can operate safely with unmanaged or undermanaged short stretches. If safety of operation under such conditions has been demonstrated, Lené noted she would support no chemical treatment along the stretch of track in Montpelier current under discussion. When Lené asked Cary about whether it had been determined that the railroad could operate safely on stretches of rail only managed by mechanical means, as this was not deemed possible at the time she chaired VPAC’s Subcommittee on Railroad Vegetation Management Alternatives., Cary responded he could not say for certain. Without assurance of safety, Lené noted it was currently difficult to support such a plan.

Aesthetic pesticide use in the city of Montpelier was raised as an alternate concern to railroad ROW treatment because aesthetic pesticide use in the city also poses the potential for public exposure to glyphosate (the product currently being used by the railroad through the city of Montpelier). Lené asked Mr. Snell if he was working on such issues. He responded that the City is working on becoming pesticide-free. Lené suggested that eliminating aesthetic pesticide use in the city may prove a more timely and effective way for stakeholders to reduce their exposure to pesticides than focusing solely on RR ROW spraying, since eliminating aesthetic use raises no public safety concerns.

The Council spoke briefly about the concept of relative risk equations and Cary described his interaction with a community after a newly leveled soccer field was treated with glyphosate.

When asked what Mr. Snell would do if he were in Mr. Delorme’s shoes—needing to manage vegetation along the rail while also addressing Montpelier’s concerns about public exposure, Mr. Snell suggested that he would ask VPAC to carry out a pilot study using alternative means of vegetation control on a short stretch of track in an effort to identify the most effective alternatives [*n.b.* AAFM would be the appropriate body to be requested]. He said the first alternative he would like to see tested would be a combination use of flame throwers and weed freezers. He qualified his request by saying the ballast of the test area must begin clean and vegetation-free. Mr. Delorme later explained that perfect ballast does not exist—that even the stone used to build the ballast to begin with contains some plant material. He also noted that when new ties are installed, the standard procedure is to replace every third tie rather than every tie, which means the existing ballast is simply reworked and vegetative material gets mixed into any new ballast added.

Lené asked Mr. Delorme if the speed of the train is or could be reduced in areas where there is more vegetation in order to mitigate safety concerns. Mr. Delorme explained that the stretch in Montpelier currently under discussion can only support a maximum speed of 10 miles per hour (mph). He noted that a Class 3 Railroad, such as the Vermonter runs, can support travel up to speeds of 40 mph with freight and 59 mph carrying passengers. A Class 2 Railroad will support travel at 25-30 mph.

A path forward for the City of Montpelier was discussed. Sid clarified the difference between a “long-term solution” and “permanent solution”. Cary suggested that language could be added to permits that will allow a city/town to enter into negotiations with the railroad if alternative means of vegetation control within the ROW are desired by its residents.

Next Meeting: To be determined.